

REMARKS

The Applicants thank the Examiner for the thorough consideration given the present application. Claims 1-3, 5-7, 9-15, 17, and 19-24 are pending. Claims 1, 3, 9, 11, and 14 are independent. Claims 4, 8, 16, and 18 were previously canceled without prejudice to or disclaimer of the subject matter set forth therein, and claims 1, 2 and 9-15 were previously withdrawn.

By way of this Reply, claims 21-24 are now also withdrawn. The Examiner is respectfully requested to reconsider the rejections in view of the remarks set forth herein.

Information Disclosure Citation

Applicants thank the Examiner for considering the reference supplied with the Information Disclosure Statements filed October 14, 2004 and April 15, 2005, and for providing Applicants with an initialed copies of the PTO forms filed therewith. The Examiner states that no English copy of CN 1032029-A was included with the IDS filed on May 16, 2006. In response, the Examiner is hereby advised that EP 0308129A is a counterpart of CN 1032029-A. It is not necessary to file an English Abstract for CN 1032029-A in view of the fact that the Examiner considered this patent when he considered EP 0308129A.

Accordingly, it is respectfully requested that the Examiner initial and return a copy of the PTO Form filed with the IDS dated May 16, 2006, acknowledging that EP 0308129A (CN 1032029-A) has been considered by the Examiner.

Restriction Requirement

Claims 1, 2, 9-15 and 21-24 have been withdrawn from further consideration. The Applicants reserve the right to file one or more divisional applications directed to claims 1, 2, 9-15, and 21-24 at a later date if so desired.

Rejection Under 35 U.S.C. § 112, second paragraph

Claims 21-24 stand rejected under 35 U.S.C. § 112, second paragraph. This rejection is respectfully traversed.

In order to overcome this rejection, the Applicants have withdrawn claims 21-24. Accordingly, reconsideration and withdrawal of this rejection are respectfully requested.

Rejections Under 35 U.S.C. §103(a)

Claims 3, 5-7, 17, and 19-24 stand rejected under §103(a) as being unpatentable over Akai (U.S. 6,314,678) in view of Harrison et al. (WO 00/63400).

This rejection is respectfully traversed.

Arguments Regarding Patentability of Independent Claim 3

Applicants respectfully submit that the combination of elements as set forth in independent claim 3 is not disclosed or made obvious by the prior art of record, including Akai and Harrison et al.

On lines 1 to 4 of page 4 of the Office Action, the Examiner states that Akai teaches an apparatus for transforming plants having similar construction and material to those of the apparatus of the present invention, and specifically states that "The holding means in Fig 7

(41) is ... and in Fig 8 (50) the holding means (col.8, lines 5-8) supports the cylindrical shape microporous bodies, wherein there are more than one plants (i.e., plurality of microporous bodies) per apparatus (Fig.8)".

However, the apparatus of the present invention cultivates and transforms simultaneously a plurality of plants supported by a plurality of microporous bodies which are removably held by a holding means, as set forth in independent claim 3. With the removable holding system of the present invention, a uniform growth stage of plants can be selected and transformed to conduct an experiment under more exact control. (See specification column [0032], Fig. 6, particularly stages (III)-(VI)).

The combination of elements, function, and effect of the present invention is not disclosed in either of Akai or Harrison et al. Therefore, even if Harrison et al teach a direct gene transformation by forming a plant and contacting the part thereof with *Agrobacterium*, independent claim 3 and claims depending thereon having such construction and function are not obvious over Akai and Harrison et al., whether taken alone or in combination.

Therefore, independent claim 3 is in condition for allowance.

The Examiner will note that each of dependent claims 5-7, 17, 19 and 20 (as previously presented) depend from allowable claim 3.

Dependent claims 5-7, 17, 19, and 20 are in condition for allowance due to their dependency from allowable independent claim 3, or due to the additional novel features set forth therein.

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Accordingly, reconsideration and withdrawal of the rejections under 35 U.S.C. §103(a)
are respectfully requested.

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CONCLUSION

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. It is believed that a full and complete response has been made to the outstanding Office Action, and that the present application is in condition for allowance.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, he is invited to telephone Carl T. Thomsen (Reg. No. 50,786) at (703) 208-4030 (direct line).

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§1.16 or 1.17, particularly extension of time fees.

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Respectfully submitted,
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